* **THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 30th NOVEMBER, 2007

\+ **LA.APP. 92/2007**

NIRMAL ..... Petitioner

versus

UNION OF INDIA & ANR. ..... Respondents

2. **LA.APP. 93/2007**

RICHPAL ..... Petitioner

versus

UNION OF INDIA & ANR. ..... Respondents

3. **LA.APP. 94/2007**

DHARAMVIR ..... Petitioner

versus

UNION OF INDIA & ANR. ..... Respondents

4. **LA.APP. 110/2007**

SATPAL AND ANR. ..... Petitioners

versus

UNION OF INDIA & ANR. ..... Respondents

5. **LA.APP. 137/2007**

LAKSHMI THRU LR'S ..... Petitioner

versus

UNION OF INDIA & ANR. ..... Respondents

6. **LA.APP. 139/2007**

SHIV CHARAN ..... Petitioner

versus

UNION OF INDIA & ANR. ..... Respondents

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7. **LA.APP. 142/2007**

HARI CHAND ..... Petitioner

versus

UNION OF INDIA & ANR. ..... Respondents

8. **LA.APP. 155/2007**

BHAGWAT SINGH THRU LR's ..... Petitioner

versus

UNION OF INDIA & ANR. ..... Respondents

9. **LA.APP. 158/2007**

BHAGWATI AND ORS. ..... Petitioners

versus

UNION OF INDIA & ANR. ..... Respondents

Present: Mr.Inder Singh for the appellant in LA. App. Nos139/2007, 155/2007
Mr.Satish Kumar Verma for the appellant in
Mr.Satish kumar, R.K. Pandey, adv. for the appellants in LA.APP.Nos.92,93, 94, 110 , 137of 2007.
Mr.Sanjay Poddar for the respondent/LAC.
Mr. Gaurav Sarin, adv. for DDA.
Mr. Deepak Khosla, Mr. Inder Singh, adv.
Mr.Satpal Singh for the appellant in LA. App. Nos. 142/2007.
Mr.Sanjay Poddar, Mr. H.C. Ray, adv. for the respondent/LAC.
Mr. Gaurav Sarin, adv. for DDA.
Mr. Deepak Khosla, Mr. Inder Singh, adv.
Mr. Santlal Nagar, adv. for NTPC

CORAM:
HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MS. JUSTICE VEENA BIRBAL

1. Whether reporters of local papers may be allowed to see the judgment? Not necessary

2. To be referred to the Reporter or not? Not necessary

3. Whether the judgment should be reported in the Digest? Not necessary

Per THAKUR, J.

A common question of law arises for determination in all these appeals

which shall stand disposed of by this common order.

2. The appeals arise out of a judgment and order dated 22nd January, 2007 passed by the Additional District Judge, Delhi whereby compensation payable to the appellants for the land acquired from their ownership has been enhanced to Rs.5,99,850/- per acre only. Dissatisfied with the said enhancement, the appellants pray for enhancement and award of Rs.6,50,000/- per acre with statutory benefits.

3. A large extent of land situate in Village Ali, New Delhi was notified for acquisition in terms of a preliminary notification dated 16th March, 1993. Award No. 9/94-95 made by the Collector, Land Acquisition on 16th June, 1994 determined the compensation payable to the expropriated land owners @ Rs.4,65,000/- per acre. Dissatisfied with the said amount, the land owners sought references to the civil court for determination of just and fair compensation payable to them. The reference court has by separate but identical orders determined a sum of Rs.5,99,850/- per acre towards compensation as against Rs.4,65,000/- awarded by the Collector. The reference court held that the sale instances which the appellant land owners had relied upon related to villages Jasola, Tughlakabad and Kondli which were not indicative of the true market value of the land acquired from their ownership, especially when it was not proved that the potentiality and the quality of land in village Jasola and Tughlakabad was the same as that of village Ali. The Court also held that the land in question was on the date of the preliminary notification being used for agricultural purposes and that no electrical or municipal connection for water was available for the same. The court came to the conclusion that sale deeds marked Ex.P3 and P4 in respect of land situate in village Ali were also not relevant for determining the market value of the land acquired from the appellants as the sale deeds had been executed more than three years after the issue of the preliminary notification in the present case. Besides, the entire transaction in Ex.P4 was said to be in cash which did not, according to the reference court, inspire confidence. Having said so, the reference

court relied upon the decision of this Court in ***Delhi Simla Catholic Archdiocese v. Union of India*** 2002 (VI) AD (Delhi) 315 and ***Romeshwar Solanki & Anr. v. Union of India & Anr.*** 57 (1995) DLT 410 and ***Bedi Ram v. Union of India*** 93 (2001) DLT 150 to hold that market prices of land in and around Delhi have seen a rise ever since the land came to be acquired by successive notifications for development of Delhi. The court then relied upon the decision rendered by it in ***Dayal Singh v. Union of India*** LAC No. 14 of 2001 decided on 28th February, 2005 in which land acquired in village Jaitpur under Award No. 2/90-91 involving a preliminary notification issued on 22nd June, 1989 had been assessed at Rs.4.65 lacs per acre. The court noticed that the said land had also been acquired for the very same purpose for which the lands in the instant cases had been acquired. Taking that rate as the basic, the court granted compensation over the same for a period of 29 months representing the period between the two preliminary notifications and awarded a sum of Rs.5,99,850/- per acre towards compensation with statutory benefits.

4. Learned counsel for the appellants argued that the reference court having relied upon the compensation paid in respect of lands situate in the adjoining village of Jaitpur could not have ignored the fact that the compensation for land in the said village had been enhanced by the reference court to Rs.6,51,000/- per acre in LAC No. 133/2004. The preliminary notification in that case had been issued on 16th October, 1992, i.e. the very same date on which the preliminary notification in the instant cases was issued. The reference court had however ignored the order passed by it in the said reference which provided the best analogy and a sound basis for enhancement in the present cases.

5. There is, in our opinion, considerable merit the submission made on behalf of the appellants. The reference court, as rightly pointed out by counsel for the parties, had placed reliance upon the acquisition of the land in the adjacent village of Jaitpur while granting enhancement from Rs.4,65,000/- per acre to Rs.5,99,850/-

per acre. This is evident from the following passage appearing in the order passed by the reference court :

> "I may observe that in Dayal Singh Vs. UOI, LAC No. 14/01, decided by this court on 28.2.05 the rate of land in village Jaitpur acquired vide Award No. 2/90-91 involving date of notification u/s 4 on 02.06.89 has been assessed @ Rs.4.65 lacs per acre. The land in aforesaid village was also acquired for purpose of ash pond for BTPS. The rate assessed by this court has been upheld in appeal by the Hon'ble High Court. However, it may be noted that in the aforesaid case the government had agreed to the demand of the petitioners/villagers to grant the value of land as per the policy of Government of Delhi effective from 27.4.90 for the land notified u/s 4 on 02.6.89. In my considered view, the basis of assessment w.e.f. 02.6.89 cannot be adopted for other villages as the concession for extending the rates fixed as per policy dated 3.5.90 for assessment of land in village Jaitpur was extended by the Government only as an exception. The same cannot be extended to base the value uniformly in all other villages fro. 2.6.89. "

6. The reference court does not however appear to have taken note of its order in LAC No. 133/1994 relied upon by counsel for the appellants in regard to the acquisition made under a preliminary notification issued on the same date as the one issued in the present cases. In LAC No. 133/1994 also relating to village Jaitpur, the reference court had awarded Rs.6,51,000/- per acre to the land owners. This is evident from the following paragraph appearing in the said order :

> "Accordingly I am of the view that market value of land situated in village Jaitpur in respect of earlier notification under Section 4 of the said Act dated 2.6.89 can be taken as base value and by giving appreciation @12% p.a. for about three years and four months, just and fair market value of acquired land can be arrived at. Accordingly, by taking base value @Rs.4.65 lacs p.a. as on 2.6.89 and by giving appreciation of 12% p.a. for a period of 3 years and four months, the market value of acquired land would be Rs.6,51,000/- per acre. It is made clear that this figure has not been arrived at on strict arithmetical calculations by counting each day and is based on the basis of approximation. Both the above issues are decided accordingly.
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> 20. In view of findings on issue no. 1 and 2, I am of the view that petitioners are entitled to compensation @ Rs.6,51,000/-. Besides this petitioner will also get 30% solatium on the market value of land fixed in this case. Petitioner shall also be entitled to interest on the enhanced amount/compensation awarded by this court under section 28 @ 9% per annum from the date of award or dispossession whichever is earlier till the expiry of one year and thereafter @ 15% per annum till payment. Petitioner

shall further be entitled to additional amount of 12% on the market value fixed in this case under section 23(1A) of the said Act till the date of dispossession or award whichever is earlier. Petitioner is further entitled to interest on solatium and additional amount in terms of judgment of Hon'ble Apex Court entitled Sunder Vs UOI reported in DLT 2001 (SC) 569"

7. It was argued on behalf of the appellants and in our opinion rightly so that once the reference court had accepted the acquisition in village Jaitpur to be comparable to that of made in village Aali, there was no reason why the enhanced compensation determined by the reference court for village Jaitpur should not be made applicable to the acquisitions in the present cases. That is especially so when the preliminary notifications in regard to both the acquisitions are not only in close proximity to each other but have been issued on the very same date. Inasmuch as the reference court ignored the enhancement awarded by it in LAC No. 133/1994 which is comparable to the present cases, it committed an error that needs to be corrected.

8. In the result, we allow these appeals and hold the appellant owners to be entitled to compensation @ Rs.6,51,000/- per acre with proportionate statutory benefits on the said amount in modification of the amount awarded by the reference court. The appellants shall also be entitled to proportionate costs.

T.S. THAKUR, J

VEENA BIRBAL, J

NOVEMBER 30, 2007
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